



TOWN OF ABINGDON
Abingdon, Virginia

*The Historic Preservation Review Board welcomes you to this meeting today. This is a citizen Board, appointed by the Town Council, to interpret and uphold the Historic Preservation Ordinance, which is Article 8 of the Abingdon Zoning Ordinance, that protects the Historic District of Abingdon which has been designated the Old and Historic District. Our aim on this Board is to provide a positive bridge between the property owners of the district and the design review process, so we welcome you to today's meeting. We appreciate your interest and we encourage public participation in our meeting. Your comments are important to our decision making process. Anyone addressing the Board will approach the podium; give your **first and last name** and your **complete physical address**.*

TO: Historic Preservation Review Board Members

FROM: Sean Taylor, Assistant Town Planner

RE: Regular meeting
Wednesday, September 7, 2016 – 5: 15 p.m.
Abingdon Municipal Building, Colonel Arthur Campbell room

Items on the agenda:

1. Roll Call
2. Approval of Minutes: Regular meeting, August 3, 2016

NEW BUSINESS

3. COA request; **Dee Hopkins**, 116 E. Main St., Abingdon, VA 24210, **owner; Robert Neeb, representative**; request for COA to install fences – one in front of property and one in rear.
4. ADJORN

If you are unable to attend this meeting, please call 276-492-2125.

Please bring your agenda information to the meeting with you. ST/mj

WORKING AGENDA

RE: **Regular meeting**
 Sept. 7, 2016 – 5:15 p.m.
 Abingdon Municipal Building, Arthur Campbell Rm.

Items on the agenda:

CALL TO ORDER

i. Reminder of the role of the HPRB – Betsy White, Chair

1. Roll Call	Present	Absent
Mrs. Patterson	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Weaver	<input type="checkbox"/>	<input type="checkbox"/>
Mrs. White	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Johnson	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Neese	<input type="checkbox"/>	<input type="checkbox"/>

2. Approval of Minutes: Regular meeting, Aug. 3, 2016

a. Request from Staff: Staff requests approval of minutes of Aug 3, 2016, regular meeting of the HPRB as presented.

i. Motion:

ii. Second:

iii. VOTE:

3. COA request; Dee Hopkins, 116 E. Main St., Abingdon, VA 24210, owner; Bryan Ely, representative; request for COA to install fences – one in front of property and one in rear.

a. Request from Staff: Staff recommends approval for the rear privacy fencing, No more than 6' in height. Staff does not recommend approval of privacy fencing along the side of the neighboring property. The Design Review Guidelines state: *12. Fences in the Front Yard, a. Fences of cast iron or wood pickets, balusters or spindles are appropriate for front yards and should be painted or stained an opaque color. Solid board fences that obstruct visibility of the historic premises are not appropriate for use in front yards.*

i.

ii. Motion:

iii. Second:

iv. VOTE:

4. ADJORN

a. Time of Adjournment:

14. Next regularly scheduled meeting will be October 5, 2016 at 5:15 pm In the Arthur Campbell Room
– 1st Floor



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Mrs. White	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Johnson	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Neese	<input type="checkbox"/>	<input type="checkbox"/>

2. Approval of Minutes: Regular meeting, Aug. 3, 2016

- a. **Request from Staff: Staff requests approval of minutes of June 1, 2016, regular meeting of the HPRB as presented.**

i. Motion:

ii. Second:

iii. VOTE:

3. COA request; **Dee Hopkins**, 116 E. Main St., Abingdon, VA 24210, **owner; Bryan Ely, representative**; request for COA to install fences – one in front of property and one in rear.

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iv. VOTE:

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a. Time of Adjournment:

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– 1st Floor

TOWN OF ABINGDON
HISTORIC PRESERVATION REVIEW BOARD
REGULAR MEETING
AUGUST 3, 2016 – 5:15 P.M.

The Regular meeting for the Historic Preservation Review Board was held on Wednesday, August 3, 2016, at 5:15 p.m. The meeting was held in the Municipal Building, Colonel Arthur Campbell room.

Mrs. White, Chairperson, called the meeting to order. Mr. Taylor called the roll.

ROLL CALL

Members Present: Mrs. Betsy White, Chairperson
 Mr. Jeff Johnson, Vice-chairman
 Mrs. Cindy Patterson, Councilperson
 Mr. Michael Weaver

 Comprising a quorum of the Board

Members Absent: Mr. Andrew Neese

Administrative Staff: Mr. Sean Taylor, Assistant Town Planner
 Mrs. Debbie Icenhour

Visitors: Mr. Mark Goodman
 Mr. Preston Edmondson
 Mr. Robert Neeb
 Dee Hopkins
 Jan Hurt
 Joyce Ferratt
 Polly Mallory

* * * * *

(2) Approval of Minutes: **Regular meeting, June 1, 2016**

Mr. Johnson moved to approve the minutes from the regular meeting, June 1, 2016, as submitted. Mr. M. Weaver and Mrs. Cindy Patterson were not present at that meeting. Per Robert's Rules of Order the minutes are able to stand approved, as submitted, without a vote.

Minutes stand approved as submitted.

* * * * *

- (3) Old Business: **Notice of Waivers**, 229 E. Valley Street, Abingdon, VA 24210, **owner; Rich Buddington, Owner**; Planning Staff report on issuance of Waiver; **Staff; Sean Taylor**.

Mr. Sean Taylor reported on the Planning staff issuance of Design Review Waiver to Mr. Rich Buddington owner of 229 E. Valley Street. Mr. Buddington requested and received a Design Review Waiver for the replacement of the existing cedar shingle roof on his residence. Replacement Shingle will be of the same material as existing and be replaced in a manner that replicates the existing roof.

* * * * *

- (4) Tax Credit request: Sam F.Hurt, 247 E. Valley Street., Abingdon, VA 24210, **Owner; Jan Hurt, representative**; request for local historic tax credits in the amount of \$12,550 for work completed at 247 E. Valley St.

After review of the materials provided for the Tax Credit review, Mr. Michael Weaver made the motion to approve the request as submitted. Second by Mr. Johnson.

Roll call vote as follows:

Mrs. White- Aye
Councilperson Patterson- Aye
Mr. J. Johnson- Aye
Mr. Weaver- Aye

All in favor. Tax Credit request approved.

* * * * *

- (5) Tax Credit request: Sam F.Hurt, 254 E. Valley Street., Abingdon, VA 24210, **Owner; Jan Hurt, representative**; request for local historic tax credits in the amount of \$32,525 for work completed at 254 E. Valley St.

Mr. Taylor reported to members of the HPRB that the amount requested exceeds the \$25,000 maximum allowed by the Town of Abingdon, Code of Ordinances. Mr. Johnson, made the motion to approve the Tax Credit request, amending the amount request to reflect the \$25,000 maximum threshold. Second by Councilperson Patterson.

Roll call vote as follows:

Mrs. White- Aye
Councilperson Patterson- Aye
Mr. J. Johnson- Aye
Mr. Weaver- Aye

All in favor. Tax Credit request approved.

* * * * *

- (6) Certificate of Appropriateness: **Joyce Ferratt, owners;** 254 Whites Mill Rd, Abingdon, VA 24210; application for Certificate of Appropriateness to replace shingles, repair and replace shutters, and repair/replace gutters. **Located at 254 Whites Mill Rd.**

Mrs. Ferratt addressed the board with a request to replace the shingles, gutters and shutters on her home and detached garage. Mrs. Ferratt requested also requested that her improvements be considered for local tax credits. Mr. Taylor informed Mrs. Ferratt that she needs to complete the Tax Credit application and provide all receipts to the HPRB upon completion of the work performed. After brief discussion, Mr. Weaver made the motion to approve the application as presented. Second by Mr. Johnson.

Roll call vote as follows:

Mrs. White- Aye
Councilperson Patterson- Aye
Mr. J. Johnson- Aye
Mr. Neese- Aye

- (7) Certificate of Appropriateness: **Carl and Polly Mallory, owners;** 112 East Main St, Abingdon, VA 24210; application for Certificate of Appropriateness for demolition of detached concrete block Garage. **Located at 111 East Main St.**

Mrs. Mallory presented to the HPRB her application to demolish the detached garage located immediately behind her residence at 112 East Main. Mr. Johnson spoke that he had examined the structure and that in his determination the structure was of no historical significance and does not meet the requirements of the design review guidelines. Mr. Robert Neeb, an adjacent neighbor to the Mallory's discussed his concerns for the lack of maintenance to the Mallory's main structure and the need for improvements to the structure not in the Mallory's current application. Mr. Johnson made the motion to approve the application as presented. Second by Mr. Weaver.

Roll call vote as follows:

Mrs. White- Aye
Councilperson Patterson- Aye
Mr. J. Johnson- Aye
Mr. Neese- Aye

- (8) Certificate of Appropriateness: **Dee Hopkins,** 116 E. Main St., Abingdon, VA 24210, **owner;** **Robert Neeb, representative;** request for COA to install fences – one in front of property and one in rear.

Mr. Robert Neeb addressed the board with a request to construct a fence along the border of his property and that of his neighbor. Mr. Neeb and Mrs Hopkins presented designs and layouts of the Fences that they would like to construct. Mr. Neeb and Mrs. Hopkins are requesting the fence due their concerns of the lack of maintenance on their neighbors structure. Mr. Johnson asked Mrs. Polly Mallory if she or Carl Mallory had agreed to the construction of a fence on the shared boundary line of the two properties. Mrs. Mallory stated that she and Carl Mallory had not agreed to with Mrs. Dee Hopkins on the construction of a fence on the boundary line. Mr. Neeb then stated that he wished to construct the

Fence 6 inches off of the current boundary line. Mr. Taylor in consultation with Debbie Icenhour Town attorney, that town staff need time to research any and all relevant State of Virginia Ordinances concerning the construction of fences in residential areas. Mr. Johnson requested that the HPRB go into executive session with the Town Attorney to discuss the legalities of the matter.

On motion of Mr. Johnson, seconded by Mr. Weaver, the HPRB went into closed session pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, 1950, as amended, the board will convene in a closed session for the purpose of consultation with legal counsel **regarding specific legal matters requiring the advice of counsel.**

On motion of Mr. Johnson, seconded by Mr. Weaver, the HPRB reconvened in regular session.

Roll call vote as follows:

Mrs. White- Aye
Councilperson Patterson- Aye
Mr. J. Johnson- Aye
Mr. Neese- Aye

Upon Further discussion Mr. Johnson made a motion to table the certificate of appropriateness until the regular stated HPRB meeting to be held on September 7, 2016. Mrs. Hopkins is requested to amend the original COA application to reflect change of placement of the proposed fence off of the shared boundary line. Second by Mrs. Patterson.

Roll call vote as follows:

Mrs. White- Aye
Councilperson Patterson- Aye
Mr. J. Johnson- Aye
Mr. Neese- Aye

- (9) Certificate of Appropriateness: **Mark Hurt, owners;** 159 West Main St, Abingdon, VA 24210, **Owner; Preston Edmondson, representative;** request for COA to perform exterior maintenance including re-point mortar, repair and paint shutters same color, repair and paint balcony same color, repair and repaint all doors same color, repair copper gutters.

Mr. Preston Edmondson representative for Mr. Mark Hurt presented to the HPRB for tax credit application purposes areas of exterior maintenance that need to occur to the structure located at 159 west main street. Mr. Edmondson stated that a lime based mortar would be used in re-pointing deteriorated masonry joints. Mr. Johnson made a motion to approve the application as presented. Second by Mr. Weaver.

Roll call vote as follows:

Mrs. White- Aye

Councilperson Patterson- Aye
 Mr. J. Johnson- Aye
 Mr. Neese- Aye

- (10) Certificate of Appropriateness: **Matthew Johnson**, 152 E. Valley St., Abingdon, VA 24210, **owner; Sean Taylor, representative**; request for 18" x 30" sign as attached.

Mr. Taylor presented to the board and application the placement of non-commercial signage on the existing pole located at 152 E. Valley Street. Members of the HPRB discussed the material the sign would be constructed of. Mr. Taylor stated that the sign would be constructed of the same material as used on signs previously approved by the HPRB. Mrs. Patterson made the motion to approve the sign as presented. Second by Mr. Johnson.

Roll call vote as follows:

Mrs. White- Aye
 Councilperson Patterson- Aye
 Mr. J. Johnson- Aye
 Mr. Neese- Aye

- (11) Certificate of Appropriateness (Renewal): **Betsy White**, 125 W. Valley St., Abingdon, VA 24210, **owner; Betsy White, representative**; request for renewal of previously approved COA from Aug. 5, 2015, HPRB meeting for porch maintenance.

Mr. Taylor presented to the board Mrs. Whites request to renew the now expired COA originally approved at the Aug. 5th 2015 HPRB meeting. Mrs. White explained that she and her husband have had difficulty in finding reliable contractor to perform the previously approved work. Mr. Weaver made the motion to renew the COA as originally presented. Second by Mrs. Patterson.

Roll call vote as follows:

Mrs. White- Aye
 Councilperson Patterson- Aye
 Mr. J. Johnson- Aye
 Mr. Neese- Aye

- (12) Reports from Staff and Commissioners
 a. Update from Michael Weaver, Andrew Neese and Sean Taylor.

Mr. Taylor stated the update on the attendance to Michael Weaver, Andrew Neese and Sean Taylor to the NAPC conference be moved to the next regular stated meeting.

There being no further business, the meeting adjourned at 7:09 p.m.

Sean Taylor, Secretary

Mrs. Betsy White, Chairperson

DRAFT

Abingdon, Virginia



IMPORTANT NOTE:

The complete application must be filed with the Town of Abingdon's Office of Planning and Zoning no later than the third Monday of the month to be heard at the next month's Historic Preservation Review Board meeting. Applications received after the third Monday of the month will be heard at the following month's meeting. If an application is not complete, it will not be included on the meeting agenda. To avoid delays, it is recommended that applicants review the Old and Historic District's Design Guidelines found at www.abingdon-va.gov/announcements.htm#BAR and meet with Planning Department staff before the deadline to review their application.

APPLICATION FOR CERTIFICATE OF APPROPRIATENESS Town of Abingdon, Virginia

Historic Preservation Review Board
133 East Main Street • P.O. Box 789 • Abingdon, VA 24212
Phone: (276) 628-3167 • Fax: (276) 698-3412

Location of Property: <u>116 East Main Street</u>		Historic District?: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Business Name (if applicable):		Tax Map No:
Applicant/Property Owner Name (PRINT): <u>DEE HOPKINS</u>		Representative Agent(s) Name:
Signature: <u>Dee Hopkins</u>		Firm:
Mailing Address: <u>116 East Main Street</u>		Mailing Address:
City: <u>Abingdon</u>		City:
State/Zip: <u>VA / 24210</u>		State/Zip:
Phone/Fax Number: <u>304-276-1181</u>		Phone/Fax Number:
Email: <u>hopkinsdee@aol.com</u>		Email:

(Check the Appropriate Boxes - Check all that Apply)

<input type="checkbox"/> Exterior Change	<input type="checkbox"/> Addition	<input type="checkbox"/> Relocation
<input checked="" type="checkbox"/> Wall/Fence	<input type="checkbox"/> Deck/Porch	<input type="checkbox"/> Demolition
<input type="checkbox"/> Driveway/Parking Area	<input type="checkbox"/> New Structure/Building	<input type="checkbox"/> Grounds/Landscaping
<input type="checkbox"/> Dumpster/HVAC, etc. screen	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Per Abingdon, Virginia Code of Ordinances, you may be eligible for local tax credits/abateements. Are you requesting tax credits/abateements for this project? ☐ Yes ☒ No

The above named person(s)/firm has permission to represent me regarding this request for architectural review. I understand that I or my representative agent(s) must be present at the Historic Preservation Review Board meeting, on the date assigned by staff, typically the first Wednesday of each month at 5:15 p.m., to present my proposal and that failure to attend may result in the denial of my proposal by the Review Board due to insufficient information. No material change in the appearance of my property, that is viewable from any public street, shall be performed before receiving a Certificate of Appropriateness. I further understand that approval by the Historic Preservation Review Board for any modifications to homes, buildings, landscaping, or grounds including fences, driveways, and parking areas shall expire 12 months from the date of approval. I hereby authorize town staff and/or members of the Historic Preservation Review Board the right to enter onto my property during normal business hours for the purposes of investigating my request for a Certificate of Appropriateness.

Signed

Date

PLEASE READ:

Applicants are encouraged to submit complete applications with sufficient information to allow a clear understanding of the proposal by the Historic Preservation Review Board members and Planning Department staff. Applications that do not clearly communicate the proposed new construction, alterations or changes will result in delays. Planning Department staff will periodically inspect properties for compliance with the COA. Failure to comply may also result in delays in the issuance of a Certificate of Occupancy, fines, or other enforcement actions.

FULL DESCRIPTION OF PROPOSAL: (please attach more sheets if necessary) *This request is for 2*

fences to be added to property.

1. picket fence - at present, the front yard is enclosed with wooden picket fencing. This request is to place the same type of fencing on the right side of property - 6 inches in - to create a more attractive entrance to property. It will go from front marker of property to beginning of the property (masonry) on the other side. See picture #1, (pink

REQUIRED INFORMATION TO BE SUBMITTED WITH APPLICATION:

Each item submitted is to be INITIALED by the applicant. If you are not submitting any of the requested information, please indicate "not applicable" and explain in the space provided why it is not necessary for this project.

- ☒ Sketch, drawing and/or elevations showing the proposed changes or improvements, and an adequate number of photographs to show the area of the proposed alteration
- ☒ Site plan or plat of property *I will provide landscape drawing (to scale) to the meeting*
- ☒ A list of materials including color samples that identifies the type and quality of materials to be used in the Proposed Project
See description above - materials: wood, paint color: white

☐ \$50.00 application fee if requesting tax credits

☐ Are you requesting tax credits for this project? *No*

☐ Other (please attach more sheets if necessary)

To be Completed/Initialed by Planning Department Staff

☐ COA application has been reviewed and deemed to be complete.

☐ List of adjoining property owners notified of this COA application has been attached to this application.

markers on stakes).

(2.) privacy fencing: I am requesting fencing that matches the existing fencing that is located between house and shed. The fencing that exists is 5½ ft with 2 foot decorative lattice on top. I am requesting 6 ft with 2 foot decorative lattice along top. This fencing will extend from ^{end of} new picket fencing to back of property. It will provide a more pleasing appearance than existing ~~fence~~ ^{house} (Mallory property) which is in disrepair. I am asking for a 3-4 ft extension of ½ setback from front of my house because the break would be more attractive if located at the corner. See photos #2, #3, and #4

Both fences will be built of wood. Privacy fence will be built with 6 inch posts for sturdiness and will use 3 rails between posts. The privacy fence will leave an opening for egress/access for Mallory's as agreed to in civil suit where existing ~~gate~~ is located. All fencing will be set in 6" from the boundary line between the 2 properties - Mallory's and mine. See photos #5 and #6 to see the two existing designs that will be replicated in the new fencing.

LAW OFFICE OF
ELY LAW GROUP
a Professional Corporation

Brian M. Ely
Attorney at Law
Email address:
elylaw@embarqmail.com

597 East Main Street
Abingdon, Virginia 24210
Telephone (276) 628-1119
Facsimile (276) 628-1109

August 12, 2016

Gregory W. Kelly, Town Manager
Town of Abingdon
HAND-DELIVERY

Sean Taylor, Secretary of
the Historic Preservation Review Board
HAND-DELIVERY

RE: Appeal of August 8, 2016 STOP WORK ORDER

Dear Greg & Sean:

Please accept this letter as the Notice of Appeal of the Stop Work Order issued by Matthew Johnson, Director of Planning, by letter dated August 8, 2016, to Dee Hopkins.

It is our position that the two posts placed on Ms. Hopkins' property do not constitute a fence or fence posts. These two posts were placed six (6) inches in on the Hopkins property as markers of the Mallory easement width. The Historic Preservation Review Board approved the Mallory's request to remove their garage. The issue with the easement was resolved by recorded easement in Instrument Number 160002954 and Order of the Circuit Court of Washington County, Virginia. By the terms of this recorded easement, the Mallory's easement on the Hopkins' property only extends the width of their garage. If the garage is torn down, there would not be a marker for its former location. Therefore, the posts are placed in concrete as markers and cannot easily be relocated.

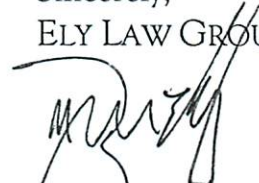
Additionally, these markers are not on the boundary line with the Mallory's property, and we believe are not subject to regulation as these two posts are not buildings, structures, roofs, chimneys or fences, as described in Section 8-4-1 of the *Code of the Town of Abingdon*. As we have advised the Town officials, no additional posts will be installed prior to the fence application hearing before the HPRB in September, 2016.

Lastly, we do not agree that a Stop Work Order includes the power to order removal of the posts which were installed prior to the order being issued. Section 8-4-1(b)(iii) seems to define a stop work order as precluding future work until a hearing before the board.

Due to the strict deadlines set forth in the letter dated August 8, 2016 and the quoted penalties for noncompliance, Ms. Hopkins appeals this "NOTICE OF VIOLATION STOP WORK ORDER" pursuant to Section 8-4-1(c)(2) of the Town Code.

Should any party have any question, please do not hesitate to contact me.

Sincerely,
ELY LAW GROUP, P.C.



BRIAN M. ELY

c: Deb Icenhour
Michael Johnson, Planning Director
HPRB Board Members

Document Prepared by:
ELY LAW GROUP, P.C.
 Brian M. Ely, VSB#37370
 597 East Main Street
 Abingdon, Virginia 24210

Title Insurance Underwriter: None

Tax Map No. 012-1-100 & 012-1-99

THIS EASEMENT, made this the 5th day of July, 2016, by and between **DEE HOPKINS**, hereinafter "Grantor", and **CARL MALLORY** and **POLLY R. MALLORY**, husband and wife, hereinafter "Grantees".

WHEREAS, the Grantor is the owner of property located at 116 East Main Street, Abingdon, Virginia, being a 0.27 acre tract known as Lot 5 of the David Craig's Plan of the Town of Abingdon, as shown on the survey of record in Plat Book 63, page 97, in the Office of the Circuit Court Clerk of Washington County, Virginia; and

WHEREAS, the Grantees are the owners of property located at 112 East Main Street, Abingdon, Virginia, being a 0.19 acre tract as shown on the survey of record in Deed Book 1011, page 13, in the aforesaid Clerk's Office; and

WHEREAS, the parties are in litigation over (1) the existence of an express easement, across the Grantor's property for the benefit of the Grantee's property as described in Instrument Number 060010181, and shown on the survey of record in Deed Book 1011, page 13 and (2) the existence, extent and length of an implied easement alleged by Grantees running the entire length of the property line common to Grantor and Grantees; and

WHEREAS, the parties have reached an agreement regarding the disputed easements; and

NOW, THEREFORE, in consideration of the final resolution of the pending litigation, and for the purposes of finally resolving the nature and extent of Grantee's easement rights in and to Grantor's real property and establishing a permanent easement for the benefit of Grantees' real property over, across and through Grantor's property, the parties agree as follows:

Grantor hereby grants, conveys and transfers to Grantees and their successors in title, a permanent easement for ingress and egress, along the gravel drive as is specifically shown and depicted on the survey by John S. Rasnick, L.S., partially titled "PLAT SHOWING THE PROPERTY OF JAMES GORDON CRAIG (DECEASED) & MARGARET M. CRAIG...", of record in Deed Book 1011, page 13, in the aforesaid Clerk's Office and attached hereto as Exhibit A. Said easement shall be the exact width, length, and location as shown on said plat and labeled as "Gravel Drive over Adjoiner's Private Alley."

Grantor and her successors in title retain the right to use the gravel drive situate on Grantor's real property for any purpose, but shall not block or impede the use of the

above described easement by Grantees, their guests and invitees, for ingress and egress along the gravel drive as shown on the attached plat. Likewise, Grantees shall not block or impede the use of said gravel drive upon Grantor's real property by Grantor, her guests and invitees, for any reason, except as may be necessary for ingress or egress along the gravel drive as shown on the attached plat. Grantees' contractors may use said easement along said gravel drive as shown on the attached plat for maintenance and improvements to Grantees' realty so long as said contractors do not block Grantor's use of the gravel drive. Grantees shall be liable for any damage to Grantor's improvements and plantings caused by their contractors. Except in the event of emergencies Grantees shall provide Grantor with advanced notice prior to said contractor's use.

The parties shall equally divide the cost of maintaining the easement in its current condition, which includes snow removal and gravel replacement. Except in the event of emergencies, prior to undertaking any such maintenance each party shall provide the other with adequate advance notice and a reasonable opportunity to participate in deciding how the gravel replacement or snow removal is undertaken. Should any party damage the easement such party shall be solely responsible for repairing such damage. Reasonable use of the easement shall not constitute damage.

Grantees and Grantor sign this easement to signify their agreement to the above for themselves as well as their successors in title and further agree that this instrument is the controlling authority as to the Grantees' use of the easement.

IN WITNESS WHEREOF, by signature and seal.

Dee Hopkins (SEAL)
DEE HOPKINS

STATE OF VIRGINIA:

COUNTY OF WASHINGTON, to-wit:

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that **Dee Hopkins**, whose name is signed to the foregoing writing, has acknowledged the same before me in my county and state aforesaid.

Given under my hand this 5th day of July, 2016.



Brian Manning Ely
Notary Public. Registration #: 168709
My Commission Expires: 05/31/20

IN WITNESS WHEREOF, by signature and seal.

Carl Mallory (SEAL)
CARL MALLORY

Polly R. Mallory (SEAL)
POLLY R. MALLORY

STATE OF: TN
CITY/COUNTY OF: Davidson, to-wit:

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that **CARL MALLORY**, whose name is signed to the foregoing writing, has acknowledged the same before me in my county and state aforesaid.

Given under my hand this 6th day of July, 2016.

Kristann A. Floyd
NOTARY PUBLIC
AT LARGE

Notary Public. Registration #: _____

My Commission Expires: 3/31/2016

STATE OF: VIRGINIA
CITY/COUNTY OF: WASHINGTON, to-wit:

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that **POLLY R. MALLORY**, whose name is signed to the foregoing writing, has acknowledged the same before me in my county and state aforesaid.

Given under my hand this 7th day of July, 2016.

Thomas Dene
NOTARY PUBLIC

Notary Public. Registration #: 7659455

My Commission Expires: February 28, 2019



Thomas Dene
Notary Public 7659455
Commonwealth of Virginia
My Commission Expires February 28, 2019

SHOWING THE PROPERTY OF

MARGARET M. CRAIG

AS SURVEYED BY JOHN S. RASNIK L.S.
ABINGDON, VIRGINIA

13093 KINCANNON ROAD
GLADE SPRING VIRGINIA
ON JUNE 08, 1998

SCALE 1" = 20'
PPS = IRON PIN SET
---+--- = WOODEN RAIL FENCE

NOTE: NO THE REPORT FURNISHED
SUBJECT PROPERTY LOCATED OUTSIDE
FLRM 100 YEAR FLOODZONE

TO BE CONVEYED TO.
VIRGINIA D. SMITH

SUBJ: MARGARET MCCOMBS
PROPERTY

ADAMANT'S PRIVATE ALLEY

66' R/W
EAST
MAIN STREET
VA STATE ROUTE 11 & ROUTE 58
BRICK SIDEWALK
N22.00.00 E 58.00

TRIGGER'S ALLEY (UNDEVELOPED)

Q 19

667200 50 FT.

FRED PANG
WOLFGANG

NIJ-65-174 15A66

157

INSTRUMENT #160002954
RECORDED IN THE CLERK'S OFFICE OF
WASHINGTON COUNTY ON
JULY 11, 2016 AT 10:58AM
PATRICIA S. MOORE, CLERK
RECORDED BY: BAM

Exhibit A

VIRGINIA:
IN THE CIRCUIT COURT OF WASHINGTON COUNTY

DEE HOPKINS,

Plaintiff and Counter-Claim Defendant,

and

ROBERT NEEB,

Counter-Claim Defendant,

v.

Case No. CL13-330

CARL MALLORY and
POLLY R. MALLORY,

Defendants and Counter-Claim Plaintiffs.

FINAL ORDER

This day came the parties and advised the Court that the matters in dispute between them have been amicably resolved. In consideration whereof, it is

ADJUDGED AND ORDERED

that this action and all causes of action herein pending shall be and hereby are DISMISSED with full and final prejudice. This Court's Order of November 20, 2014, being temporary in nature, shall not survive entry of this Final Order.

The Clerk shall transmit a *teste* copy of this Final Order to counsel of record and Mr. Robert Neeb, Counter-Claim Defendant *Pro Se.*,

There remaining nothing further to be done, the Clerk shall strike this action from the active docket of the Court and place its papers among the ended causes.

Enter this 13th day of July, 2016:


JUDGE

WE ASK FOR THIS:



ROBERT NEEB
116 E. Main Street
Abingdon, VA 24210
Counter-Claim Defendant *Pro Se*



Brian M. Ely, Esq.
ELY LAW GROUP
Virginia State Bar No. 37370
597 East Main Street
Abingdon, VA 24210
(276) 628.1119
Counsel for Dee Hopkins



Thomas Dene
Virginia State Bar No. 40391
DENE & DENE, P.C.
138 Court Street, N.E.
Abingdon, VA 24210
(276) 628-8644
Counsel for Carl Mallory and Polly R. Mallory

ATTESTED COPIES PROVIDED TO:
☒ PLT ATTY ☐ JDR ☐ VITAL RECORDS
☒ DEF ATTY ☐ GDC ☐ VSP/CCR
☐ GENERAL RC ☐ GAL
☐ SPECIAL COMM ☐ OTHER:

DATE: 7-13-14 (B.MCCRACKEN)



TOWN of ABINGDON

OFFICE of the
Director of Planning
Mathew Johnson, AICP

P. O. Box 789, 133 West Main Street
Abingdon, Virginia 24212-0789

(p) (276) 628 - 3167
(f) (276) 628 - 9986
(e) mjohnson@abingdon-va.gov

-NOTICE OF VIOLATION- STOP WORK ORDER

August 8, 2016

Dee Hopkins
116 E. Main St.
Abingdon, VA 24210

Dear Ms. Hopkins:

It has come to the attention of this office that the fence and/or fence posts which have been installed at 116 E. Main are not in compliance with the Historic District Guidelines and the Code of the Town of Abingdon. Specifically, section 8-4-1 of the Code of the Town of Abingdon requires that:

"...no building or structure within the old and historic district may be demolished or moved in whole or in part, nor may any architectural features of said building or structure which are subject to public view from any public street, right-of-way or place be altered in any way that affects the external appearance of the building or structure, including such items as roofs, chimneys, fences and color changes, without (i) prior approval of an application to the board of architectural review ("board") hereinafter created, and (ii) the board's issuance of a certificate of appropriateness."

The Historic Preservation Review Board (also known as the Board of Architectural Review) has not issued a Certificate of Appropriateness and, as such, the Town must require that the fence posts which have been installed be removed immediately. **Please remove the posts within seven (7) days of the date of this letter to avoid penalties.**

Penalties may be assessed per section 24.2 "Penalties" of the Code of the Town of Abingdon including:

Sec. 24-2. - Penalties.

a.

Any person who violates any of the provisions of this article shall be guilty of a Class 1 misdemeanor and upon conviction shall be subject to punishment by a fine of not more than \$2,500.00 per violation per day and confinement in jail for not more than 12 months, either or both.

b.

Each day during which a violation of this article occurs or continues shall be deemed a separate and distinct violation of this ordinance.

c.

Any person who commits any of the acts prohibited by this article or violates any of the provisions of this ordinance shall be liable to the town for any/all costs of testing, containment, cleanup, abatement, removal, disposal and any other related costs or expenses that the town may incur in connection with the enforcement of this article, the prohibition or correction of a violation of this article, or the abatement of any violation hereunder.

d.

In addition to the penalties set forth above, all other actions are hereby reserved, including an action in equity for the proper enforcement of this ordinance, the imposition of a civil fine or penalty for any violation or noncompliance or permitting it to continue as provided for by the Code of Virginia (1950), § 10.1-603.14, as amended, which are incorporated herein by reference and authorizes civil penalties and injunctions to address violations, hereunder; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this ordinance may be declared by the town council to be a public nuisance and abatable as such.

e.

Any person who knowingly makes any false statements, representations or certifications in any record, report, or other document, either filed or requested pursuant to this article, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the director under this article in monitoring discharges, shall be guilty or liable of this article.

You may remedy this notice of violation by requesting and receiving a Certificate of Appropriateness from the Town of Abingdon's Historic Preservation Review Board. Additionally, per section 8-4-1 (c), you shall have the right to appeal the action of the administrator with regards to this stop work order to the Historic Preservation Review Board. Any decision of the Board may be appealed by following the filing procedure in section 8-12.

It is not the wish of the Town to prevent you from completing work on your property, but rather to ensure that proper procedures have been followed prior to work beginning. Thank you for your understanding in this matter.

Respectfully,



Matthew Johnson
Director of Planning

Cc: Brian Ely, Ely Group Attorneys at Law, 597 E. Main St. Abingdon, VA 24210 (sent via USPS Certified Mail, Return Receipt; USPS First Class Mail; and hand delivered on 8/8/16)
Deb Icenhour, Town Attorney
Sean Taylor, Secretary of the Historic Preservation Review Board
HPRB Board Members







Deborah C. Icenhour

From: Dene & Dene, P.C. [dene.dene.pc@gmail.com]
Sent: Friday, August 26, 2016 4:02 PM
To: Brian Ely
Cc: Deborah C. Icenhour
Subject: Mallory-Hopkins Driveway Dispute

Brian:

I continue to represent Carl and Polly Mallory. I was saddened to learn that Ms. Hopkins has started another controversy with the Mallory family, this time by wrongfully proposing to erect a fence along the side of the common driveway next to the Mallory residence.

As you know, the right of way that Ms. Hopkins recently executed guarantees my clients' contractors the right to "use said easement along said gravel drive as shown on the attached plat for maintenance and improvements to Grantees' realty." The erection of a fence between the driveway and the exterior of my clients' home will constitute a barrier that will impede and block my clients' contractors from using various implements -- lifts, ladders, and scaffolding -- for the improvement and maintenance of my clients' property. The proposed fence is absolutely contrary to the easement your client signed and will not be tolerated.

Because your client has already deeded construction rights along the driveway she lacks a sufficient property interest to undertake construction of this fence.

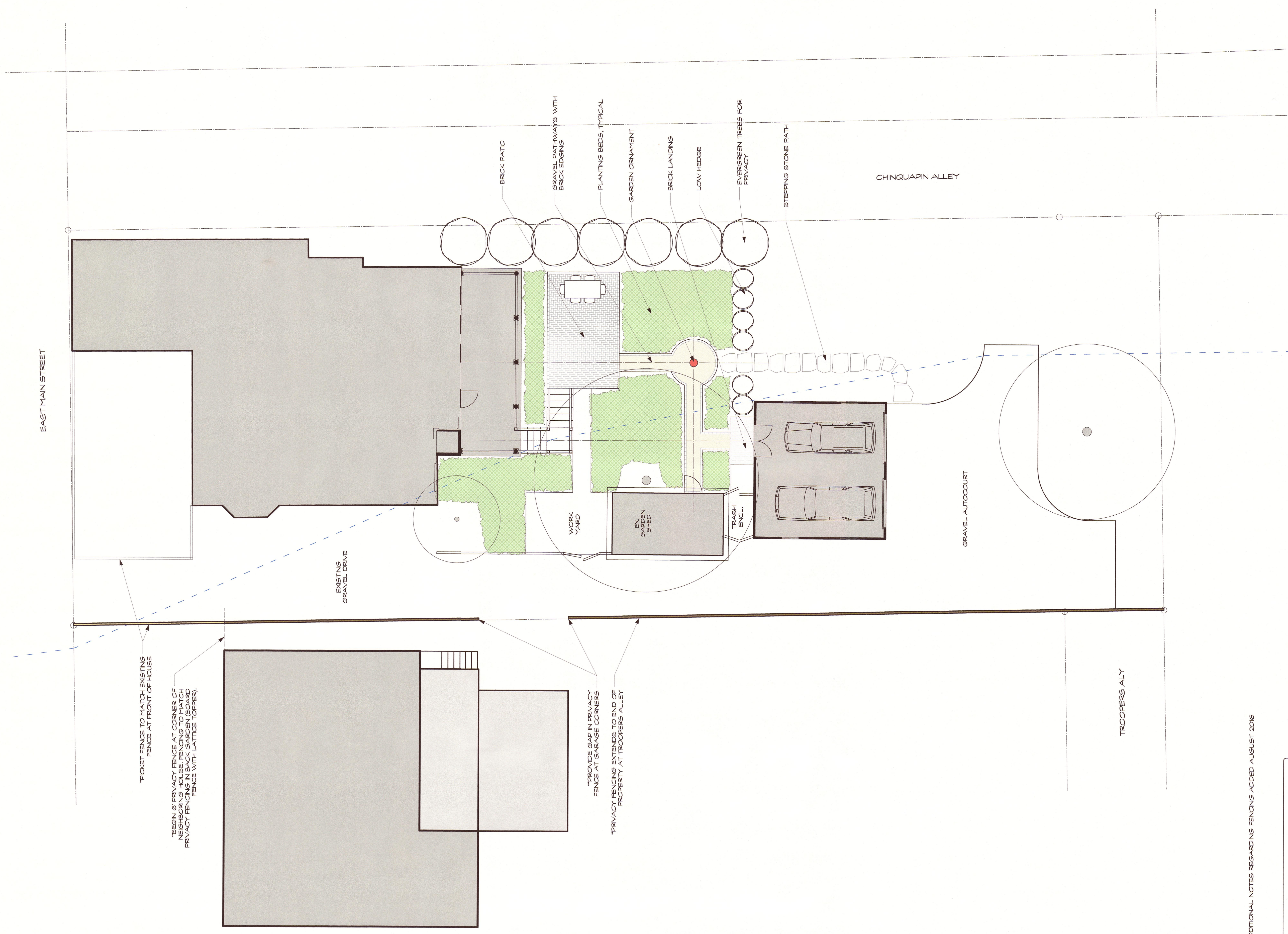
If there is any further action taken to construct this fence we will apply to the Court for injunctive and declaratory relief. We are demanding that Ms. Hopkins immediately remove the fence posts she has placed near the garage.

Best regards,

-Thomas

--

DENE & DENE, P.C.
Attorneys at Law
138 Court Street, N.E.
Post Office Box 1135
Abingdon, VA 24210
276-628-8644 Telephone
276-628-8846 Facsimile



EAST MAIN STREET

EXISTING GRAVEL DRIVE

*PICKET FENCE TO MATCH EXISTING FENCE AT FRONT OF HOUSE

*BEGIN IS PRIVACY FENCE AT CORNER OF NEIGHBORING HOUSE FENCING TO MATCH PRIVACY FENCING IN BACK GARDEN (BOARD FENCE WITH LATTICE TOPPERS).

*PROVIDE GAP IN PRIVACY FENCE AT GARAGE CORNERS

*PRIVACY FENCING EXTENDS TO END OF PROPERTY AT TROOPERS ALLEY

BRICK PATIO

GRAVEL PATHWAYS WITH BRICK EDGING

PLANTING BEDS, TYPICAL

GARDEN ORNAMENT

BRICK LANDING

LOW HEDGE

EVERGREEN TREES FOR PRIVACY

STEPPING STONE PATH

CHINQUAPIN ALLEY

WORK YARD

EXISTING SHED

TRASH ENCL.

GRAVEL AUTO COURT

TROOPERS ALY

* ADDITIONAL NOTES REGARDING FENCING ADDED AUGUST 2016

HOPKINS RESIDENCE
SITE PLAN
MAY 2013

scale 1/8" = 1'-0"

0 4 8 16

q|c
landscape architects